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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,148	02/16/2001	Ronald J. Pavlik	1260.05	2151
7590	04/08/2004		EXAMINER	
MELVIN K. SILVERMAN SUITE 500 500 WEST CYPRESS CREEK ROAD FORT LAUDERDALE, FL 33309			NGUYEN, CUONG H	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 04/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER/

ART UNIT	PAPER
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Commissioner for Patents

Application Control/Serial No. 09/784,148

CUONG H. NGUYEN  
Primary Examiner  
Art Unit: 3625

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/784,148	PAVLIK, RONALD J.
<b>Examiner</b>	<b>Art Unit</b>	
CUONG H. NGUYEN	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 09 January 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-20 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 16 February 2001 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

1. This Office Action is the response to the communication received on 1/09/2003 (the change of address).
2. Claims 1-20 are pending in this application.

### Drawings

3. This application has been filed with 16 drawings, and they have been used for examining purposes.

### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1 the paragraph containing "..., coordinates suitable therewith, ..." and "and combinations thereof" is unclear, indefinite, and confused in plain English.

Claim 1 is incomplete since step © said: "if said step (b)(iii) is selected, ..." because having an "if" condition, when said condition is "false", there is no action that leading to an end of that claimed method.

The remaining claims (2-20), not specifically mentioned, are rejected for incorporating the defects from their respective parent claim 1 by dependencies.

6. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 12 the paragraph containing "..., The method as recited in Step 2" is unclear what "Step 2" refers to.

7. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 18 the paragraph containing "..., executing a zoom function, . . ." is unclear.

8. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 20 the paragraph containing "The **system** as recited in claim 18,..." lacks an antecedent basis.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

9. Claims 1, 15-17, 19-20 are rejected under 35 U.S.C. § 103(a) as obvious over Allard et al. (US Pat. 6,249,773), in view of the Katz et al. (US Pat. 6,055,513).

A. Re. claim 1: Allard et al. teach a method of online retail shopping comprising steps of:

- (a) assigning a profile to each customer (see Allard et al., 6:1-3);
- (b) selecting a product search mode from:
  - (i) physically looking at a product on display (see Allard et al., Figs 1 and Fig. 5, ref. 102);
  - (ii) observing a static image including store department-specific product images (see Allard et al., Fig.5 – ref.102); and
  - (iii) proceeding to an intelligent shopping cart and accessing said intranet with said intranet access means these features are equivalent to utilizing an intelligent shopping cart to check out (see Allard et al., Fig.5 - ref. 118);
- (c) if said step (b) (iii) is selected, employing said intelligent shopping cart to use and view a graphical user interface (GUI) thereof (see Allard et al., Fig.5 – ref. 118); and

Allard et al. do not expressly disclose that continuously providing views of product alternatives, and (d) accessing product specific information within searchable databases, selected from suggestion categories consisting of product information, frequently asked questions about a consumer indicated product, alternatives to said indicated product, coordinates suitable therewith, and combinations thereof.

However, Katz et al. teach that idea (see Katz et al., 24:12-29).

Katz et al. also teach an idea of accessing account information: accessing product specific information, selecting product information, frequently asked questions about a product, alternatives to a product, coordinates suitable therewith, and combinations thereof (see Katz et al., 7:45 to 8:5).

Subject mattes of claim 1 are purchasing from a retail establishment, and checking out. Amazon.com has been doing the same thing; although there is not "physically looking at a product on display" but users look at a list or a display of items. ISS is similar to a shopping cart.

It would be obvious for one with ordinary skill in the art at the time of invention to combine Allard et al. and Katz et al. to continuously providing views of product alternatives and being able to select a particular product because this help to give a customer an option to immediately select an equivalent product.

B. Claims **19-20** are rejected under 35 U.S.C. § 103(a) as obvious over Allard et al. (US Pat. 6,249,773), in view of the Katz et al. (US Pat. 6,055,513).

The rationales and references for rejection of claim 1 are incorporated. Allard et al. do not expressly disclose that continuously providing views of product alternatives.

However, Katz et al. teach that idea (see Katz et al., 24:12-29).

It would be obvious for one with ordinary skill in the art at the time of invention to combine Allard et al. and Katz et al. to continuously providing views

of product alternatives because this help to give a customer an option to immediately select an equivalent product.

C. Re. claims 15, 17: The rationales and references for rejection of claim 1 are incorporated.

Allard et al. also teach a use of GUIs that is a step of accessing products by price ranges via GUI/(clicking/selecting an image to have further information), (see Allard et al., Fig.2 – ref. 50 and Fig. 5- ref.100).

D. Re. claim 16: The rationales and references for rejection of claim 15 are incorporated.

Allard et al. also teach a use of a step of accessing products by price ranges via GUI by random (see Allard et al., Fig.2 – ref. 50 and Fig. 5- ref.100).

10. Claims **2-14, 16, 18** are rejected under 35 U.S.C. § 103(a) as obvious over Allard et al. (US Pat. 6,249,773), in view of the Official Notice.

The rationales and references for rejection of claim 1 are incorporated.

- The fact that an online transaction applying claimed features such as:
- Sorting each product category based on price ranges (claim 2);
- Accessing said price ranges “criteria” (claim 3);
- executing a zoom function (claims 4, 18);
- arranging sorted search results (e.g. by products’ price ranges)(claims 5, 16);
- obtaining a product’s bar-code tag/element (claim 6);
- inputting said barcode tag/element to a computer (claim 6);

- ordering a product if not in stock – e.g., in a procurement department, a second source is order if a first source does not have a required electronic part (claim 7)
- providing assistances to a customer with an electronic device while shopping (claims 8-10);
- positioning a table near sale products (claim 11);
- storing a customer's searches – e.g., in an IKEA store, a customer writes down which furniture items he selects and gives that list to a store's cashier, that list would be entered with items' descriptions, and items would be delivered to said customer after checking out (claim 12)

– these claims' ideas are fundamental in e-commerce and they are not inventive according to *In re Venner* - The court held that providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art (the examiner takes Official Notices here because these are old and well-known available computer programming applications). *In re Venner*, 262 F.2d 91, 120 USPQ 193, 194 (CCPA 1958).

It would be obvious to one with ordinary skill in the art to make implementations of Allard et al.'s teaching with the above Official Notices because these are old and well-known available computer programming applications to e-commerce online transactions.

**11. Re. To claims 13-14:**

The rationales and references for rejection of claim 2 are incorporated.

- an online access means comprises a panel of store's credit card size and dimension – this would be a designer's choice for a particular format of receiving/inputting personal information (e.g., instead of having a plain blank space for entering an account number/password a fancier means/cell for inputting those information would be presented) – this is called a non-functional descriptive material because this particular information doesn't contribute a proper limitation to a claimed step of inputting personal information for a right to access (see Allard et al., claim 2).

It would be obvious for one with ordinary skill in the art at the time of invention to appreciate the Allard et al.'s teaching of a credit card would be used to charge purchased products because the claimed format of charging are only different from cited prior art in non-functional descriptive materials.

### ***Conclusion***

12. Claims 1-20 are not patentable.

- An ISS (Intelligent Shopping Station) may be implemented in a form of an "intelligent/smart" shopping cart having all functions as said claimed ISS.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose number is 703-305-4553. The examiner can normally be reached on 7am-3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, JEFFREY A. SMITH can be reached on 703-308-3588. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Please provide support, with page and line numbers, for any amended or new claim in an effort to help advance prosecution; otherwise any new claim language that is introduced in an amended or new claim may be considered as new matter, especially if the Application is a Jumbo Application.

*Cuonghnguyen*

CUONG H. NGUYEN  
Primary Examiner  
Art Unit 3625